

MDP:JM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ECF CASE

-----X
JAMES R. SCANNELL,

**Defendants
Demand Trial
By Jury**

Plaintiff,

-against-

VERIFIED
ANSWER

RAHUL MITTAL and RAJ MITTAL,

07-CV-4613(PAC)

Defendants.

-----X

Defendants, by their attorneys, DOWNING & PECK, P.C., answering the verified complaint herein, respectfully set forth and allege as follows:

1. Deny knowledge and information sufficient to form a belief as to each and every allegation contained in paragraphs 1, and 12 of said complaint.
2. Admit each and every allegation contained in paragraphs 2, 3, 4, 5, 6, 7, and 8 of said complaint.
3. Deny each and every allegation contained in paragraphs 9, 10, 11, 13, 14, and 19 of said complaint.
4. Deny knowledge and information sufficient to form a belief as to each and every allegation contained in paragraphs 15 and 18 of said complaint, and refers all questions of law to the Court.
5. Upon information and belief, deny each and every allegation contained in paragraphs 16 and 17 of said complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

6. Plaintiff was negligent and his damages, if any, must be reduced accordingly.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

7. Plaintiff did not sustain a "serious injury" as defined by Insurance Law 5102 and, therefore, is barred from recovery herein.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

8. Plaintiff's damages, if any, must be reduced in accordance with CPLR 4545.

WHEREFORE, the answering defendants demand judgment dismissing the complaint herein, together with the costs and disbursements of this action.

Dated: New York, New York
May 29, 2007

Yours, etc.,

BY: /s/
MARGUERITE D. PECK - 3627
DOWNING & PECK, P.C.
Attorneys for Defendants
5 Hanover Square - 20th Floor
New York, New York 10004
212-514-9190

TO: DAVID C. COOK, ESQ.
KREINDLER & KREINDLER LLP
Attorneys for Plaintiff
100 Park Avenue, 18th Floor

New York, New York 10017
212-687-8181

VERIFICATION

STATE OF NEW YORK)

COUNTY OF NEW YORK) ss.:

I, the undersigned, an attorney duly admitted to practice in the courts of New York State, state that I am MARGUERITE D. PECK, the attorney of record for defendants in the within action; I have read the foregoing ANSWER and know the contents thereof; the same is true to my own knowledge, except as to the matters therein alleged to be on information and belief, and as to those matters I believe it to be true. The reason this verification is made by me and not by said defendant is because said defendant is not presently in the County of New York wherein I maintain my office.

The grounds for my belief as to all matters not stated upon my own knowledge are as follows: Investigations, reports, etc.

Dated: New York, New York
May 29, 2007

_____/s/
MARGUERITE D. PECK - 3627

